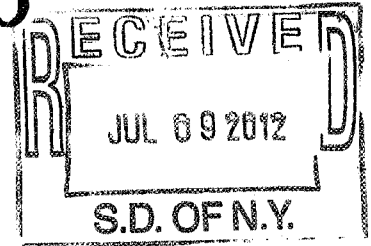


12 CV 05406

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORKMitchell, DamienAMKC Quad Tower

(In the space above enter the full name(s) of the plaintiff(s).)

COMPLAINT

under the

Civil Rights Act, 42 U.S.C. § 1983
(Prisoner Complaint)

-against-

City of new yorkDora B SchirioMayor bloombergJohn Doe Corizon Health Services manager A.M.K.CGovernor CianoJury Trial: ☒ Yes ☐ No

(check one)

(In the space above enter the full name(s) of the defendant(s). If you cannot fit the names of all of the defendants in the space provided, please write "see attached" in the space above and attach an additional sheet of paper with the full list of names. The names listed in the above caption must be identical to those contained in Part I. Addresses should not be included here.)

I. Parties in this complaint:

- A. List your name, identification number, and the name and address of your current place of confinement. Do the same for any additional plaintiffs named. Attach additional sheets of paper as necessary.

Plaintiff

Name

Mitchell, Damien

ID #

3491203484 NYSID 2571227-L

Current Institution

A.M.K.C. C-95

Address

18-18 Hazen StreetEast Elmhurst New York 11370

- B. List all defendants' names, positions, places of employment, and the address where each defendant may be served. Make sure that the defendant(s) listed below are identical to those contained in the above caption. Attach additional sheets of paper as necessary.

Defendant No. 1 Name City of New York Shield # _____
 Where Currently Employed Corporation Counsel
 Address 100 Church Street
NEW YORK NEW YORK 10007

Defendant No. 2 Name Dora B Schriro Shield # _____
 Where Currently Employed Commissioner D.O.C of NY
 Address 75-20 Astoria Boulevard
East Elmhurst New York 11370

Defendant No. 3 Name Mayor Michael Bloomberg Shield # _____
 Where Currently Employed Gracie Mansion
 Address City Hall
New York New York

Defendant No. 4 Name A.M.K.C. Corizon Manager (J.D.) Shield # _____
 Where Currently Employed A.M.K.C. Facility C-95
 Address 18-18 Hazen Street
East Elmhurst New York 11370

Defendant No. 5 Name Governor Cuomo Shield # _____
 Where Currently Employed Office of Governor
 Address Executive Chambers, Capitol Building
Albany New York 12224

II. Statement of Claim:

State as briefly as possible the facts of your case. Describe how each of the defendants named in the caption of this complaint is involved in this action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Attach additional sheets of paper as necessary.

- A. In what institution did the events giving rise to your claim(s) occur? A.M.K.C
- B. Where in the institution did the events giving rise to your claim(s) occur? Intake area
medical identification and bedding (Housing Area),
- C. What date and approximate time did the events giving rise to your claim(s) occur? This
occurred when I was house at Amk C, gave several
complaints to officer and medical staff, nothing was
done.

What happened to you?

Who did what?

Was anyone else involved?

Who else saw what happened?

D. Facts: what happen to me was the department of Correction Eliminated the Corcraft mattress and I receive a low cost effective mattress. In error for having all beds the same size and not having for people over 5'11 tall. When they substituted the standard mattresses for non new york state standard mattress mats. Inappropriate bedding set and issued them to the full inmate population at Rikers Island. Causing me extreme lower back pain and leg soreness. Corporation Counsel all ~~are~~ are responsible to access a viable budgetary system in new york to assure compliance with the Correctional, health and hospital and chiropractic regulations for bedding in new york Correctional System. The failure to issue proper bed size, frame and mattress causes leg, neck and back pains. The fact that pillows are not given out to all the detainees. and the fact that AmKC does not allow you to have permit for a double mattress. The sad thing is that the manager of Corron health services also failed to declare and emergency and have the health service mandate proper measures as the problem of epidemic proportion.

III. Injuries:

If you sustained injuries related to the events alleged above, describe them and state what medical treatment, if any, you required and received. Extreme lower back pain (neck) that also affected my legs and exacerbated of other injuries. I'm able to receive extra blankets to pile on top of each other but they always taken on searches. I just don't know what else to do. Always in extreme pain. At one point I was receiving medications but AmKC head doctor has been failing to acknowledge my health needs. I would also like this to be followed up in a respectful manner where this cruel and unusual punishment can come to a halt. Also would like some one to look into me receiving my proper medication.

IV. Exhaustion of Administrative Remedies:

The Prison Litigation Reform Act ("PLRA"), 42 U.S.C. § 1997e(a), requires that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted." Administrative remedies are also known as grievance procedures.

A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

Yes > No

If YES, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s).

Since early 2012 I have been in the following
Correctional facilities. A.M.K.C

B. Does the jail, prison or other correctional facility where your claim(s) arose have a grievance procedure?

Yes ☒ No ☐ Do Not Know ☐

C. Does the grievance procedure at the jail, prison or other correctional facility where your claim(s) arose cover some or all of your claim(s)?

Yes ☐ No ☒ Do Not Know ☐

If YES, which claim(s)? They claim issue is a budget issue.

D. Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose?

Yes ☒ No ☐

If NO, did you file a grievance about the events described in this complaint at any other jail, prison, or other correctional facility?

Yes ☐ No ☒

If you did file a grievance, about the events described in this complaint, where did you file the grievance?

Grievance ~~Filed~~ filed in A.M.K.C Facility

1. Which claim(s) in this complaint did you grieve? The mattress and

Bed frame size and style is inappropriate for my
weight/height.

2. What was the result, if any? grievance declared they cannot
do anything to fix the problem

3. What steps, if any, did you take to appeal that decision? Describe all efforts to appeal to the highest level of the grievance process. Contacted outside agencies

Sought appeal mechanism but was told there
are none other than appeal through the Courts.

F. If you did not file a grievance:

1. If there are any reasons why you did not file a grievance, state them here: not
applicable.

2. If you did not file a grievance but informed any officials of your claim, state who you

Different officer and medical staff

informed, when and how, and their response, if any: Nothing we can do, due to ~~budget~~ budget, too bad is what was told to me.

- G. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies. I filed the grievance and was told D.O.C has to address this issue because the grievance department cannot do anything other than file the grievance. Called inspector General at 212 266 1900 and reported incident, and called 212 519 3530 the Prisoners rights project all investigations were pending. wrote to health department, d.o.c. b.o.c to seek Emergent relief.

Note: You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.

V. **Relief:**

State what you want the Court to do for you (including the amount of monetary compensation, if any, that you are seeking and the basis for such amount). Compensatory damages \$50,000 to 100,000 dollars, normal damages with cost and fees. Extreme circumstances of this matter the issue is known to the City and all defendants and they still fail to make concession.

On
these
claims

VI. Previous lawsuits:

- A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action?

Yes ____ No ☒

- B. If your answer to A is YES, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another sheet of paper, using the same format.)

1. Parties to the previous lawsuit:

Plaintiff _____

Defendants _____

2. Court (if federal court, name the district; if state court, name the county) _____

3. Docket or Index number _____

4. Name of Judge assigned to your case _____

5. Approximate date of filing lawsuit _____

6. Is the case still pending? Yes ____ No ____

If NO, give the approximate date of disposition _____

7. What was the result of the case? (For example: Was the case dismissed? Was there judgment in your favor? Was the case appealed?) _____

On
other
claims

- C. Have you filed other lawsuits in state or federal court otherwise relating to your imprisonment?

Yes ____ No ____

- D. If your answer to C is YES, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, using the same format.)

1. Parties to the previous lawsuit:

Plaintiff _____

Defendants _____

2. Court (if federal court, name the district; if state court, name the county) _____

3. Docket or Index number _____

4. Name of Judge assigned to your case _____

5. Approximate date of filing lawsuit _____

6. Is the case still pending? Yes ____ No ____

If NO, give the approximate date of disposition _____

7. What was the result of the case? (For example: Was the case dismissed? Was there judgment in your favor? Was the case appealed?) _____

I declare under penalty of perjury that the foregoing is true and correct.

Signed this 29 day of June, 2012

Signature of Plaintiff

Inmate Number

Institution Address

[Signature]
BC 349-12-03484 / NYSID# 857122 7-1
18-18 Hazen Street
East Elmhurst NY 11370

Note: All plaintiffs named in the caption of this complaint must date and sign the complaint and provide their inmate numbers and addresses.

I declare under penalty of perjury that on this 29 day of June, 2012 I am delivering this complaint to prison authorities to be mailed to the *Pro Se* Office of the United States District Court for the Southern District of New York.

Signature of Plaintiff:

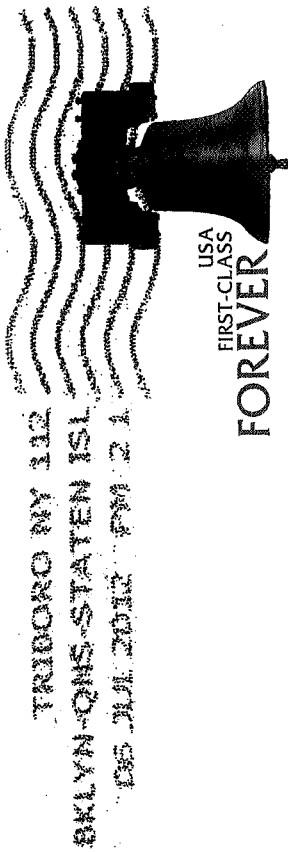
[Signature]

DAMIAN MITCHELL

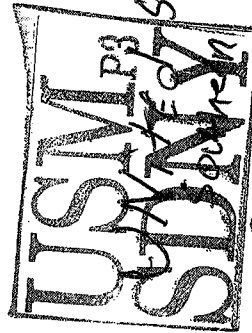
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A.M.K.C. 6-95

18-18 Hazen Street
East Elmhurst, New York 11370

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States District Court
District of New York

Office of the Clerk
500 Deal Street

New York, NY 10007

10007+1330